

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STANLEY FULLER,

Plaintiff,

-against-

ROAR MONEY FORMERLY MONEY LION,

Defendant.

22-CV-5284 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff Stanley Fuller, who is appearing *pro se* and *in forma pauperis* (IFP), resides in South Carolina. He filed this action under the Court's diversity jurisdiction, 28 U.S.C. § 1332, alleging that Defendant, located in New York, failed to refund to him approximately \$2,200 that he had in an account. By order dated July 29, 2022, the Court dismissed the complaint for lack of subject matter jurisdiction, holding that Plaintiff's allegations did not suggest a claim under either its diversity jurisdiction or its federal question jurisdiction, 28 U.S.C. § 1331, and granted Plaintiff 30 days' leave to replead his claims. On September 16, 2022, Plaintiff filed an amended complaint.¹ This time invoking the Court's federal question jurisdiction, Plaintiff sets forth the same facts that were in his original complaint. The amended complaint is dismissed for lack of subject matter jurisdiction, for the same reasons described in the July 29, 2002 order.

District courts generally grant a *pro se* plaintiff an opportunity to amend a complaint to cure its defects, but leave to amend is not required where it would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988).

¹ Plaintiff filed a motion for reconsideration seeking an extension of time to file the amended complaint. The motion is granted to the extent that the Court accepted the amended complaint for filing.

Because the defects in Plaintiff's complaint cannot be cured with an amendment, the Court declines to grant Plaintiff another opportunity to amend his complaint.

The Clerk of Court is directed to terminate the outstanding motion. (ECF 7.)

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to issue judgment in this case.

SO ORDERED.

Dated: October 24, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge